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DAVID E. JANSSEN
Chief Administrative Officer

October 11, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
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From: David E. Janssen
Chief Administrative Officer

REPORT ON NOVEMBER 8, 2005 SPECIAL ELECTION BALLOT MEASURES

At the Board meeting of June 20, 2005, my office was requested to report back on the impact on the County budget of the initiatives on the November 8, 2005 special election ballot. This report was prepared in response to your request.

There are eight initiatives on the ballot, and the Board has not taken a position on any of them. The initiatives are as follows:

- Proposition 73: Waiting period and parental notification before termination of minor's pregnancy. Initiative Constitutional Amendment.
- Proposition 74: Public school teachers. Waiting period for permanent status. Dismissal. Initiative Statute.
- Proposition 75: Public employee union dues. Restrictions on political contributions. Employee consent requirement. Initiative Statute.
- Proposition 76: State spending and school funding limits. Initiative Constitutional Amendment.
- Proposition 77: Redistricting. Initiative Constitutional Amendment.
- Proposition 78: Discounts on prescription drugs. Initiative Statute.
- Proposition 79: Prescription drug discounts. State-negotiated rebates. Initiative Statute.
- Proposition 80: Electric service providers. Regulation. Initiative Statute.

SUMMARY IMPACT ON THE COUNTY

Most of the measures on the November ballot, with the exception of Proposition 76, have either minor or modest impact on the County. Proposition 73, regarding termination of a minor's pregnancy, would have a slight fiscal impact. Proposition 74, regarding public school teachers, has no effect on County finances or operations. Proposition 75, relating to public employee union dues, may have a minor implementation cost impact on the County. Proposition 77, which is primarily intended to change the redistricting process, would not allow sufficient time to assign voters to new precincts in their new legislative districts in time for the June 6, 2006 Primary Election, and would result in one-time costs of approximately $500,000. Proposition 78 and Proposition 79 relating to prescription drug discounts, are likely to have a minimal effect on the Department of Health Services. Proposition 80, which deals with regulation of electric service providers, could possibly have a minor effect by limiting the County's ability sell excess capacity of its cogeneration plants.

Proposition 76, the "California Live Within Our Means Act" (CALWOMA) has the potential to significantly affect County finances and operations by interrupting the flow of funds supporting vital services, and potentially shifting costs to the County. For example, if Proposition 76 was in effect during FY 2003-04, the spending limit would have reduced the County's share of Realignment funds by approximately $38 million.

The attachment contains a summary of the initiatives and their effect on the County.

DEJ:GK
MAL:JF:MS:MR:hg

Attachment
c: Executive Officer, Board of Supervisors
County Counsel
Each Department Head
Legislative Strategist

Attachment

LOS ANGELES COUNTY – CHIEF ADMINISTRATIVE OFFICE

NOVEMBER 8, 2005 SPECIAL ELECTION BALLOT MEASURES

PROPOSITION 73: WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. Initiative Constitutional Amendment.

Proposition 73 would amend the California State Constitution to require health care professionals to notify a parent or guardian 48 hours before performing an abortion on an unemancipated minor, except in a medical emergency or with a parental waiver. It would permit a judicial waiver of notice based on clear and convincing evidence of the minor's maturity or of the minor's best interests. Physicians would be required to report abortions performed on minors, and the California Department of Health Services would be required to maintain records and compile statistics relating to these abortions. The measure would also require that a minor consent to an abortion unless mentally incapable or in a medical emergency, and would impose civil penalties on individuals who coerce a minor to have an abortion.

The Legislative Analyst's Office (LAO) reports that the cost of Proposition 73 to Medi-Cal and other programs is unknown, but it is probably not significant. According to the LAO, the fiscal effects on State government would depend on how these new requirements affected the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of the measure on the birthrate for minors would be limited, if any. If it were to increase the birthrate for minors, the net cost to the State would probably not exceed several million dollars annually for health and social services programs, the courts, and State administration combined.

The County's Department of Health Services indicates that this measure would have a minor effect on the Department because very few abortions are performed in County facilities on patients under 18 years of age. In FY 2003-04, only nine abortions were performed on patients in this age group.

This measure is supported by Governor Schwarzenegger, Life on the Ballot; the California Catholic Conference, former California Supreme Court Justice William Clark; former State Senator David Roberti; former State Assembly Member Barbara Alby; former State Senator Waddie P. Deddeh; Randy Thomasson, Executive Director of the Campaign for California Families; former State Assembly Member Don Sebastiani; Dr. Robert T. Lynch, Knights of Columbus; Dean Forman, former President of the Roseville Joint Union High School District Board; and Camile Giglio, Executive Director of the California Right to Life Committee.

It is opposed by the California Medical Association, California Nurses Association, American Academy of Pediatrics of California, California Primary Care Association, NARAL Pro-Choice California, Planned Parenthood Affiliates of California, the American

Civil Liberties Union, League of Women Voters of California, American Association of University Women California, Asian American Public Policy Institute, California Black Women's Health Project, California National Organization for Women, California Women Lawyers, Mexican American Political Association of California, Catholics for a Free Choice, National Council of Jewish Women of California, California Democratic Party, Republican Majority for Choice, and the California Women's Law Center, among others.

PROPOSITION 74: PUBLIC SCHOOL TEACHERS. WAITING PERIOD FOR PERMANENT STATUS. DISMISSAL. Initiative Statute.

Proposition 74 would increase the length of time required before a teacher may become a permanent employee from two complete consecutive school years to five complete consecutive school years, and would apply to teachers whose probationary period began during or after FY 2003-04. It would also authorize school boards to dismiss a permanent teaching employee who receives two consecutive unsatisfactory performance evaluations.

The LAO reports that the measure would have unknown impact on school district teacher salary costs as a result of changes in teacher tenure and dismissal practices, and that the fiscal impact could vary significantly from district to district depending upon the local labor market, desirability of working in the district, and district actions in response to the measure. Dismissal or turnover of more teachers could result in salary savings from replacing higher salaried veteran teachers with lower salaried, less experienced teachers. However, greater job insecurity could place upward pressure on teacher compensation costs resulting in increased costs.

The Los Angeles County Office of Education indicates that the County Board of Education has no position on Proposition 74.

This measure is sponsored by Governor Schwarzenegger and supported by Citizens to Save California, which includes Allan Zaremberg, President of the California Chamber of Commerce; Joel Fox, President of the Small Business Action Committee; Jon Coupal, President of the Howard Jarvis Taxpayers Association; Bill Hauck, President of the California Business Roundtable; Rex Hime, President and CEO of the California Business Properties Association; and Janet Lamkin, President and CEO of the California Bankers Association. It is opposed by the California Teachers Association, the California Federation of Teachers, and the League of Women Voters of California.

PROPOSITION 75: PUBLIC EMPLOYEE UNION DUES. RESTRICTIONS ON POLITICAL CONTRIBUTIONS. EMPLOYEE CONSENT REQUIREMENT. Initiative Statute.

Proposition 75 would prohibit public employee labor organizations from using dues or fees for political contributions unless the employee provides prior consent each year on a specified written form. The prohibition would not apply to dues or fees collected for charitable organizations, health care insurance or other purposes directly benefiting the public employee. It would also require labor organizations to maintain and submit to the Fair Political Practices Commission records of individual employee's and organizations' political contributions. These records would not be subject to public disclosure.

The LAO indicates that Proposition 75 would probably result in minor State and local government implementation costs to implement and enforce the consent requirements of the measure. Some of these costs could be partially offset by revenues from fines for not complying with the measure's provisions and/or fees to cover the costs of processing payroll deductions for union dues and fees.

This measure is supported by Governor Schwarzenegger, Lewis K. Uhler, President of the National Tax Limitation Committee; the California Republican Party; and the Small Business Action Committee. It is opposed by the Alliance for a Better California, which includes the California Teachers Association, the California State Employees Association, the California Correctional Peace Officers Association; and the League of Women Voters of California.

PROPOSITION 76: STATE SPENDING AND SCHOOL FUNDING LIMITS. Initiative Constitutional Amendment.

Proposition 76, the "California Live Within Our Means Act" (CALWOMA), proposes to amend the State Constitution to establish spending limits that would affect local funds, change the budget process, modify the Proposition 98 minimum funding guarantee for K-14 education, restrict transfers from transportation and special funds to the General Fund, and establish a schedule for repayment of deferred mandate claims. The initiative also would grant the Governor authority to declare a fiscal emergency and balance the budget through spending reductions in the event the Legislature fails to enact a balanced budget or respond adequately to a fiscal emergency in a timely manner.

<u>Spending Limits</u>**:** Proposition 76 proposes to limit State fiscal year spending (General Fund and special funds) in a fiscal year to the total prior-year expenditures plus the average annual growth rate in General Fund and special fund revenues for the three previous fiscal years. If total revenues exceed the limit for any given year, the excess would be allocated proportionately to the General Fund and each special fund, with the General Fund share designated as follows:

- 25% to the Budget Stabilization Account (BSA) established by Proposition 58.

- 50% for repayment of outstanding liabilities, such as the Proposition 98 minimum funding guarantee, Deficit Recovery Bond debt, and the Transportation Investment Fund loan.

- 25% to a newly created School, Roads and Highway Construction Fund.

Excess special fund revenues would be held in reserve for expenditure in years when revenues are less than the spending limit.

In its July 2005 ballot initiative analysis, the Legislative Analyst's Office (LAO) indicates that Proposition 76 could result in a less volatile pattern of State spending over time, to the extent that reserves set aside by the spending limit during good times, would be available in bad times. The LAO also points out that based on the FY 2005-06 Budget and recent strong revenue growth, the proposed spending limit is unlikely to constrain State expenditures in FY 2006-07, because the limit would likely exceed projected revenues and expenditures under current law. However, over the long term, the LAO believes the spending limit could have significant impact on annual spending because State revenues are highly sensitive to economic changes.

Governor's New Budget Authority: The initiative would grant the Governor extraordinary authority in the budget process. The Governor could declare a fiscal emergency if revenues fall 1.5 percent below forecast levels, or if he determines the State will spend more than one-half of the funds in the BSA. If a fiscal emergency is declared, the Legislature must convene in a special session to address the fiscal crisis. The Governor is not required to present a curtailment plan to the Legislature when he declares a fiscal emergency. If the Legislature fails to remedy the crisis by the 45th day following the proclamation, the Governor would have the authority to make spending reductions at his discretion. In addition, if a budget is not enacted by July 1, spending would continue at the prior fiscal year level, and the Governor would have similar authority to reduce spending if the Legislature fails to enact a budget within 30 days.

School Funding Guarantee: The initiative proposes to change the Proposition 98 funding guarantee by modifying the method used to determine funding levels for K-14 schools. CALWOMA would eliminate the maintenance factor, which currently requires the State to restore the school funding base in the future to the level it would have been if the Legislature had not suspended the minimum funding guarantee to deal with a budget crisis. Proposition 76 also would exclude appropriations in excess of the minimum funding guarantee from the funding base for future years. In addition, the initiative would require that the State's maintenance factor obligations for years prior to FY 2004-05 be repaid over a 15-year period and convert the suspended FY 2004-05 minimum funding guarantee into a one-time obligation to be repaid within 15 years.

The LAO analysis points out that the provisions to change school funding formulas would make school funding subject to the annual decisions of State policymakers. Budget reductions resulting from the new spending limit or the Governor's new spending reduction authority could also apply to K-14 school funding.

Transportation and Special Fund Transfers: Proposition 76 calls for repayment of outstanding loans to the Transportation Investment Fund no later than June 30, 2022, and prohibits the Legislature from suspending future transfers after FY 2006-07. Loans for short-term cash flow are allowed as long as the full amount is repaid within the same fiscal year. Proposition 76 also authorizes the Legislature to provide for the issuance of bonds by the State or local governments to securitize the repayment of prior year suspended fund transfers.

Deferred Mandates: The initiative would amend the State Constitution to declare that if a mandate is suspended by the Governor, the operation of the mandate is also suspended for that fiscal year. In addition, local government-deferred claims for costs incurred prior to FY 2004-05 would be repaid over a period not to exceed five years rather than the 15-year period stipulated in the recently adopted FY 2005-06 Budget Act. Since the outstanding deferred mandate claims to local government total approximately $1.5 billion, repayment over 15 years would yield $100 million annually. Shortening the repayment period to five years would increase the estimated annual payment to $300 million.

Impact on Local Government: According to the LAO, while Proposition 76's spending limit and new powers granted to the Governor would likely result in a reduction of State spending relative to current law, these reductions could shift costs to local governments, in particular, counties which administer most of the State's health and social services entitlement programs. For example, if the Governor were to reduce State funding for entitlement programs, costs could be shifted to counties, and there could be increased demand for locally funded programs such as health and social services.

The spending limit is of major concern to counties because it would apply to special funds dedicated to local governments, even though the initiative is intended to control State expenditures. Because the spending limit is determined by prior year revenue growth, it will have different effects, depending upon the performance of the State's economy that may be at odds with budget needs at the time. For example, during periods of economic recession, when the demand for government services tends to increase, the limit is likely to be higher than the revenues available. Conversely, when revenues start to improve following years of slow growth, local governments would be constrained from restoring program cuts or enhancing critical programs dependent upon special funds, even if the funding were available, because the spending limit would be based upon the years of slow or negative growth.

The spending limit could restrict the use of revenues, which are essential for public safety, health, mental health, and social services programs. The proposed spending limits would affect important County programs that receive revenue from State special funds, such as Realignment, which is funded by dedicated sales tax and vehicle license fee revenues for health, mental health, and social services programs, and it could potentially affect Proposition 172, which is funded by dedicated sales tax revenue to support public safety programs.

The issue of whether Proposition 172 is subject to Proposition 76 is unclear; however, the Director of the State Department of Finance, in a presentation before CSAC, indicated that Proposition 172 funds would not be affected by the initiative. On the other hand, the California Budget Project and CSAC staff analyses have indicated that Proposition 172 could be subject to CALWOMA's spending limit. The issue remains unsettled.

Based on our preliminary analysis, if Proposition 76 was in effect during FY 2003-04, the spending limit would have reduced the County's share of Realignment funds by approximately $38 million. These funds would have been placed in a reserve account and not sent to the County, regardless of the need for services, staffing requirements, or caseload increases for mandated programs. Presumably these funds would be available in subsequent years in which Realignment revenues fell below the cap.

In addition to the Realignment program, Proposition 76 will affect funds for early childhood development programs (Proposition 10), transportation programs (Proposition 42), tobacco tax funded health programs (Proposition 99), mental health programs (Proposition 63), and other County programs that receive revenue from special funds classified under CALWOMA.

Proposition 76 has the potential to reduce the authority of counties over their budgets and restrict their ability to adjust quickly to changing circumstances. The proposed new budget authority to be given to the Governor to make mid-year budget adjustments could also weaken the constitutional protections obtained by counties through the passage of Proposition 1A in 2004. For example, if a mid-year reduction were not accompanied by a corresponding statutory change, counties would still be liable for services even without sufficient funding. Similarly, if the Governor suspends a mandate mid-year, the suspension would be treated as if it had been in effect for the fiscal year and counties would not be reimbursed for services rendered prior to the suspension.

Counties' discretion and flexibility could also be affected by the State's failure to pass a budget on time, a situation that is likely to occur when one-third of the Legislature plus one refuses to vote for the budget. Failure to pass the budget would automatically put the prior year's budget in place regardless of caseload increases or State emergencies. The application of expenditure limits to special funds such as Realignment may require the use of county general funds in those years when the spending cap constrains special fund spending. It could also affect the recently adopted State hospital financing waiver by encumbering funds counties use to make certified public expenditures for health services, and therefore potentially compromise the ability to draw down federal funds.

Because of the inclusion of local government special funds under the new spending limit, and the Governor's authority to reduce expenditures at his discretion and to suspend mandates, Proposition 76 could have a significant fiscal impact on the County and other local jurisdictions which have the responsibility to operate State and local programs that are dependent on the State General Fund and special funds. The proposed initiative could affect the County's ability to provide adequate services and may result in reduction or elimination of vital services.

This measure is sponsored by Governor Schwarzenegger and supported by Citizens to Save California, which includes Allan Zaremberg, President of the California Chamber of Commerce; Joel Fox, President of the Small Business Action Committee; Jon Coupal, President of the Howard Jarvis Taxpayers Association; Bill Hauck, President of the California Business Roundtable; Rex Hime, President and CEO of the California Business Properties Association; Janet Lamkin, President and CEO of the California Bankers Association; and the California State Association of Counties. It is opposed by the Committee to Protect California's Future and No on 76, California Teachers Association, a coalition of educators, firefighters, school employees, health care givers and labor organizations; Health Access California; and the League of Women Voters of California among other organizations. The League of California Cities has taken a neutral position.

PROPOSITION 77: REDISTRICTING. Initiative Constitutional Amendment.

Proposition 77 would amend the California State Constitution to change the process for redistricting California's Senate, Assembly, Congressional, and Board of Equalization districts. It would establish a three-member panel of retired judges, selected by legislative leaders, to adopt a new redistricting plan upon passage of this measure and after each national census. The panel would be required to consider proposals and comments from the Legislature and the public, and to hold public hearings for this purpose. Funding for the panel would be limited to a maximum of one-half of the amount spent by the Legislature for redistricting in 2001, adjusted for inflation.

A redistricting plan would become effective immediately upon adoption by the judges' panel and filing with the Secretary of State for use in the next statewide primary and general elections. The final redistricting plan would be subject to voter approval at that general election. If the plan is rejected by the voters, a new panel of judges would be selected and the adoption process would be repeated. The measure also provides for judicial review of the adopted plan. If the court finds that the plan fails to conform to the provisions of this measure, it may order that a new plan be adopted.

The LAO indicates that Proposition 77 is likely to result in one-time State redistricting costs probably totaling a few million dollars because it requires that a new redistricting plan be developed for use at the next primary election rather than after the 2010 Federal census. The LAO anticipates that counties would experience additional one-time costs of about $1 million statewide to implement the new district boundaries. Because of the measure's limit on redistricting costs, there could be a reduction in State costs for each redistricting effort. However, if voters rejected any redistricting plan, there would be some additional State and county costs for a new plan to be developed and implemented. There would also be additional State and county costs to place each plan on the ballot for voter approval.

Should this initiative pass, the Registrar-Recorder's Office indicates that there would be insufficient time to complete the multiple steps required to re-precinct voters based on newly established legislative district lines in time for the June 6, 2006 Primary Election. The Registrar-Recorder's Office estimates that the additional labor that would be required to complete the work to redraw precinct boundary lines, including overtime and temporary help, would cost the County approximately $500,000.

Attorney General Bill Lockyer filed suit to remove Proposition 77 from the November ballot, indicating that it violated the State Constitution because the text reviewed and approved by his office differed significantly from the version circulated for signature. A State appellate court refused to reinstate the measure, ruling the initiative was fatally flawed. On August 12, 2005, the California Supreme Court put Proposition 77 back on the ballot, ruling that the controversy surrounding the measure can be decided after the November vote.

This measure is sponsored by Governor Schwarzenegger and supported by Citizens to Save California, which includes Allan Zaremberg, President of the California Chamber of Commerce; Joel Fox, President of the Small Business Action Committee; Jon Coupal, President of the Howard Jarvis Taxpayers Association; Bill Hauck, President of the California Business Roundtable; Rex Hime, President and CEO of the California Business Properties Association; and Janet Lamkin, President and CEO of the California Bankers Association; and Common Cause. It is opposed by Californians for Fair Representation, the Committee to Protect California's Future, and the Mexican American Legal Defense and Educational Fund.

PROPOSITION 78: DISCOUNTS ON PRESCRIPTION DRUGS. Initiative Statute.

Proposition 78 would establish a discount prescription drug program for California residents which would be overseen by the California Department of Health Services (CHDS). It would enable certain low and moderate income California residents to purchase prescription drugs at reduced prices, and impose a $15 program application fee which would be renewable annually. A web-based clearinghouse would be available to uninsured families and individuals under 300 percent of the Federal poverty level that will allow access to the free and reduced price drug assistance programs currently offered by pharmaceutical manufacturers. Those beneficiaries who do not qualify for free drug programs would save approximately 40 percent off the retail pharmacy price.

The measure authorizes the CDHS to contract with pharmacies to sell prescription drugs at discounts negotiated in advance, and to negotiate rebate agreements with drug manufacturers, relying upon their voluntary participation. Participating manufacturers would be required to offer drugs at the lowest price paid by any commercial buyer in the State. Outreach programs would be permitted to increase public awareness of the program. The CDHS could end the program if there were insufficient discounts or enrollment to make the program work, or if a vendor could not be found to run the program.

Proposition 78 is modeled on Governor Schwarzenegger's "California Rx" proposal, SB 19 (Ortiz), which failed passage in the Senate Health Committee on April 27, 2005.

The LAO indicates that Proposition 78 is likely to result in significant one-time and ongoing State General Fund costs potentially in the millions to low tens of millions of dollars annually for administration and outreach activities to implement this new drug discount program. The fiscal effect would depend on the extent of outreach efforts and the number of consumers who choose to participate in the drug discount program. The LAO anticipates a one-time State General Fund cost in the low tens of millions of dollars to cover the funding gap between the time when drug rebates are collected by the State and when the State pays funds to pharmacies for drug discounts provided to consumers, if these costs are not covered by advance rebate payments from drug manufacturers. The LAO also anticipates unknown savings for State and county health programs due to the availability of drug discounts.

The County Department of Health Services (DHS) indicates that the County is able to purchase outpatient medications under the Federal Public Health Services Act at costs lower than this measure will provide. However, the program may reduce the Department's prescription costs for those patients able to afford the discounted medications available through the prescription assistance program. DHS cautions that Proposition 78 requires only voluntary participation from drug manufacturers, so the overall impact on prescription drug costs will not be known until after rebate contracts are completed. Although it is likely to have a minimal effect on the Department, it may have a substantial impact on patients who do not use County services, but qualify to obtain medications through this measure.

Proposition 78 is sponsored by the Pharmaceutical Research and Manufacturers of America, which represents the country's largest pharmaceutical research and biotechnology companies including Abbot Laboratories, Amgen Inc., Bayer Corporation

Pharmaceuticals, Biogen, GlaxoSmithKline, Merck, among many others. The measure is supported by Governor Schwarzenegger, the California Medical Association, AARP, and the California Pharmacists Association. It is opposed by the League of Women Voters of California and Health Access California.

PROPOSITION 79: PRESCRIPTION DRUG DISCOUNTS. STATE-NEGOTIATED REBATES. Initiative Statute.

Proposition 79 would establish a prescription drug discount program to be administered by the CDHS. It would provide prescription drug discounts to California residents whose family incomes are 400 percent or less of the Federal poverty level, whose unreimbursed expenses for prescription drugs are five percent or more of family income, or whose total un-reimbursed medical expenses are 15 percent or more of family income. The measure would authorize the CHDS to negotiate drug rebate agreements with drug manufacturers to provide program drug discounts. It would prohibit new Medi-Cal contracts, or extensions of existing Medi-Cal contracts, with manufacturers not providing the Medicaid best price to this program. Proposition 79 would establish an advisory board to review access to and pricing of prescription drugs and advise on prescription drug pricing. It would define prescription drug profiteering as: 1) exacting an unconscionable price, 2) exacting a price that leads to unjust or unreasonable profit, 3) discriminating unreasonably against any person in the sale of prescription drugs in the State, or 4) intentionally preventing or restricting the sale of prescription drugs in the State in retaliation for the provisions of this measure, and would establish civil penalties for these violations. The measure would direct the CDHS to conduct an outreach program to inform State residents about the new drug discount program.

Proposition 79 is modeled on AB 75 (Frommer) which is awaiting a hearing date in the Senate Health Committee.

The LAO indicates that this measure would result in significant one-time and ongoing State costs, potentially in the millions to low tens of millions of dollars annually, for administration of this program. The fiscal effect would depend on the extent of outreach efforts and the number of consumers who choose to participate in the drug discount program. The LAO anticipates a one-time State General Fund cost in the low tens of millions of dollars to cover the funding gap between the time when drug rebates are collected by the State and when the State pays funds to pharmacies for drug discounts provided to consumers, if these costs are not covered by advance rebate payments from drug manufacturers. The LAO also anticipates unknown costs and savings as a result of linking drug prices to Medi-Cal prices, unknown savings for State and county health programs due to the availability of drug discounts, and unknown costs and offsetting revenues resulting from the anti-profiteering provisions.

DHS indicates that the County is able to purchase outpatient medications under the Federal Public Health Services Act at costs lower than this measure will provide. However, the program may reduce the Department's prescription costs for those patients able to afford the discounted medications available through the prescription assistance program. Because Proposition 79 requires drug manufacturers to participate in the program, or be prohibited from establishing or extending a Medi-Cal contract with the State, it would almost certainly face legal challenges from the pharmaceutical industry, which would delay implementation. Although it is likely to have a minimal effect on the Department, it may have a substantial impact on patients who do not use County services, but qualify to obtain medications through this measure.

This measure is sponsored by Health Access California and supported by the Alliance for a Better California, a coalition of educators, firefighters, school employees, health care givers, and labor organizations; and the League of Women Voters of California. It is opposed by the Governor Schwarzenegger, Pharmaceutical Research and Manufacturers of America.

PROPOSITION 80: ELECTRIC SERVICE PROVIDERS. REGULATION. Initiative Statute.

Proposition 80 would end deregulation of California's electricity industry by prohibiting direct access purchasing of electricity by consumers from electric service providers (ESPs). Direct access purchasing, which allows consumers to bypass their local utility to purchase directly from providers on the energy market, was suspended during the State's energy crisis but it is scheduled to resume when the State's long-term energy contracts expire in 2013. Existing direct access contracts would be grandfathered under this initiative. Proposition 80 would subject electric service providers to "jurisdiction, control and regulation" by the California Public Utilities Commission, similar to what is currently the case for investor owned utilities, by stipulating that registration with the Commission, currently required to do business in California, would constitute the provider's consent to be regulated. Proposition 80 would also require ESPs to meet the current requirement on investor owned utilities to increase renewable energy resource procurement by at least one percent each year in order to procure 20 percent of retail sales from renewable energy by 2010, rather than 2017, as required by existing law. Finally, Proposition 80 would require the Public Utilities Commission and the Legislature to restore and affirm the obligation of all electric utilities to serve their customers reliably and at just and reasonable rates, and would restore the authority of the State's investor owned utilities to operate under long-term resource plans which can include ownership of generation plants.

The LAO anticipates that Proposition 80 would result in increased State costs ranging from negligible to $4 million annually for regulatory activities of the California Public Utilities Commission. These costs would largely depend on the extent to which the Commission exercises the expanded authority granted to it under the measure to regulate the ESPs. Under existing law, the potential additional costs would be funded by fees paid by electricity consumers. The LAO further indicates that the measure would have an unknown impact on other State and local costs and revenues because the measure's effect on retail electricity rates is uncertain. If the measure increases certainty about the structure of the electricity market, it may encourage additional investment in the market, including construction of new generation, which could increase the supply of electricity and lower rates. However, prohibiting customers from entering into new direct access contracts with ESPs would limit competition and result in higher rates. To the extent that the measure limits State and local governments from entering into new direct access contracts, it takes away an opportunity to reduce their electricity costs.

The Internal Services Department (ISD) indicates that the termination of customer choice in California's electricity market will not directly impact the County's utilities budget because the County is currently supplied by Southern California Edison rather than an ESP, and because deregulation was effectively suspended by the enactment of ABX 1 (Keeley) on February 1, 2001. Because Proposition 80 only extends the existing suspension of deregulation, ISD does not believe it will result in an increase in rates. However, it is possible that the County's ability to benefit from the excess capacity of its cogeneration plants could be limited by Proposition 80 if the County were to be considered a retail provider. The County is currently seeking to preserve this option through regulatory action by the California Public Utilities Commission or through legislation.

The Independent Electrical Producers Association, representing independent wholesale companies, and the California Retailers Association, representing retail energy providers, filed a suit to remove the measure from the ballot, contending that it was unconstitutional. A State appellate court agreed, finding that the proposal illegally impinged on the Legislature's constitutional authority over the Public Utility Commission, which oversees the investor-owned electric utilities. On July 27, 2005, the State Supreme Court restored the measure to the ballot indicating that it would be more appropriate to review the constitutional challenge after the election rather than disrupt the electoral process.

This measure is sponsored by the Utility Reform Network and supported by the Alliance for a Better California, a coalition of educators, firefighters, school employees, health care givers, and labor organizations. This measure is opposed by Governor Schwarzenegger, and the non-utility wholesale and retail energy companies.